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DATE FILED: 9/28/09

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CATHERINE MARTINO,

Plaintiff,

06 Civ. 9900(PKC)(RLE)

-against-

ORDER ADOPTING REPORT
AND RECOMMENDATION

WESTCHESTER COUNTY DEPARTMENT
OF CORRECTIONS, et al.,

Defendants.
-----x

P. KEVIN CASTEL, District Judge:

In a Memorandum and Order filed January 15, 2008, I dismissed all claims against the named and served defendants. I granted the plaintiff until February 18, 2008 to show cause why the John Doe defendants ought not be dismissed for failure to name or serve. With the assistance of Magistrate Judge Ellis to whom the case was referred, plaintiff identified certain additional defendants and named them in an amended complaint. However, the amended complaint failed to plead facts that would place the defendants on notice of the claims against them. Magistrate Judge Ellis entered an Order requiring the plaintiff to address the issue by August 12, 2009. The Order expressly noted that “[f]ailure to show cause may result in recommendation that her case be dismissed for failure to prosecute.” (Order of July 29, 2009).

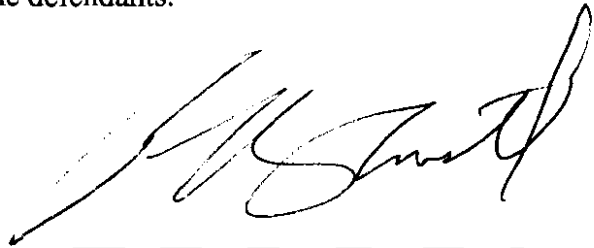
Plaintiff failed to respond to the July 29 Order by August 12, 2009 and has not done so since then. She has not sought an extension of time to do so. Judge Ellis issued a Report and Recommendation (“R&R”) on August 24, 2009 recommending that the action be dismissed for failure to prosecute.

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The R & R advised the parties that they had ten days from service of the R & R to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. As of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. The R & R expressly called petitioner's attention to Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1). Plaintiff received clear notice of the consequences of the failure to object and has waived the right to object to the R & R or obtain appellate review. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.1992). No circumstances are presented which would cause this Court to depart from that rule in the interest of justice. Id.

The R&R is adopted in its entirety and the action is DISMISSED WITH PREJUDICE. The Clerk shall enter judgment for the defendants.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'P. Kevin Castel', written over a horizontal line.

P. Kevin Castel
United States District Judge

Dated: New York, New York
September 28, 2009